

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM BUFORD,

Petitioner,

No. 2:03-CV-02412 ALA HC

vs.

MATTHEW C. KRAMER, ORDER

Respondent.

Petitioner William Buford, a state prisoner proceeding pro se, has timely filed a notice of appeal of this Court's June 11, 2008 order denying his application for a writ of habeas corpus. He has also requested a Certificate of Appealability.

When an application for federal habeas corpus challenges "the Board of Prison Terms' administrative decision to deny [a] request for parole," but not "the State court judgment or sentence derived therefrom," the challenged decision relates to the execution of a petitioner's sentence. *Rosas v. Nielsen*, 428 F.3d 1229, 1231 (9th Cir. 2005). Consequently, a petitioner challenging a parole denial need not secure a certificate of appealability to appeal a district court's denial of his habeas petition because the petitioner is not challenging a detention arising out of "process issued by a State court."

1 28 U.S.C. § 2253(c)(1)(A).

2 In *Rosas*, “[t]he target of the first ground [of the] petition [was] not the State court
3 judgment or sentence derived therefrom, but the Board of Prison Terms' administrative
4 decision to deny his request for parole.” 428 F.3d at 1232. Here, Petitioner targets the
5 California Board of Prison Terms’ administrative decision finding him unsuitable for
6 parole. As in *Rosas*, the challenged decision relates to the execution of Petitioner’s
7 sentence, and no certificate of appealability is required.

8 The Clerk of the Court is DIRECTED to refer the appeal to the Ninth Circuit.

9 ///

10 DATED: July 10, 2008

11 /s/ Arthur Alarcón
12 UNITED STATES CIRCUIT JUDGE
13 Sitting by Designation
14
15
16
17
18
19
20
21
22
23
24
25
26